

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5186 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HARIBHAI V PANCHAL BY PAH ASHO HARIBHAI PANCHAL

Versus

COMPETENT AUTHORITY & EX-OFFICIO DY COLLECTOR (ULC)

Appearance:

MR PJ VYAS for Petitioner

Mr K.C. Shah, AGP, for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 21/06/96

ORAL JUDGEMENT

The petitioner has questioned the legality and validity of the judgment and order dated 24.3.91 recorded by the Urban Land Tribunal in Appeal No.93/89 on 26.3.91 confirming the order of the Competent Authority and Deputy Collector, Urban Land Ceiling, Ahmedabad, passed on 22.11.88 ULC case No.443-Remand by filing this petition under Article 226 and 227 of the Constitution of

India.

2. The learned advocate Mr P.J.Vyas for the petitioner firstly contended that the impugned orders are bad in law. In that he has submitted that the Competent Authority has committed serious error of law in considering the constructed portion of land as vacant land. This submission appears to be correct. The Competent Authority has observed in last para of page 19 that the residential constructed portion of survey No.4 and 11 admeasuring 847.32 sq. mtrs. should be considered as vacant land of the land holder. This finding is illegal and contrary to the decision of the Apex Court in Smt. Meera Gupta v. State of West Bengal, AIR 1992 SC 1567. The constructed portion of the land has to be excluded from the computation. Therefore, the first submission of the learned counsel for the petitioner is required to be accepted.

3. The second submission raised by the learned advocate Mr Vyas for the petitioner is that the draft statement is not given to Ashok Haribhai Panchal, son of the petitioner in view of the fact that the property is left by the deceased Shardaben, wife of the petitioner and the mother of Ashok Haribhai. It is, therefore, submitted that there is breach of provisions of rule 5 of the Urban Land Ceiling and Regulations Rules 1976 (Rules). This submission is also quite acceptable. The draft statement ought to have been given to the son of the petitioner.

4. Since the Competent Authority has committed serious error of law in computation made and the procedure, it would be expedient to remand the matter to the Competent Authority for fresh inquiry and computation.

5. In the result, the petition is partly allowed. The matter is remanded to the Competent Authority for fresh inquiry and examination and computation in accordance with law. Rule is made absolute to the aforesaid extent with no order as to costs.

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